

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT) IN THE COURT OF COMMON PLEAS
) FOURTEENTH JUDICIAL CIRCUIT
) CASE NO.: 2019-CP-07-

VAUGHN DYER, individually, as)
 Personal Representative of the Estate)
 of STACEY DYER, and as Parent)
 and Guardian for D.J.D. and S.M.D.,)
 minors under the age of 18,)

Plaintiff,)

SUMMONS

v.)

BEAUFORT COUNTY,)

Defendant.)

TO THE DEFENDANT ABOVE NAMED:

YOU ARE HEREBY SUMMONED AND REQUIRED to answer the Complaint in this action a copy of which is hereby served upon you, and to serve a copy of your Answer to the said complaint on the subscriber at, P.O. Box 769, 1251 May River Road, Bluffton, South Carolina 29910 within thirty (30) days after service thereof, exclusive of the day of such service, and if you fail to appear and defend against the said action then judgment by default will be rendered against you for the relief demanded in the Complaint.

VAUX MARSCHER BERGLIND, P.A.

S/ ROBERTS "TABOR" VAUX, JR.

Roberts "Tabor" Vaux, Jr. - SC Bar # 77421

P.O. Box 769

Bluffton, SC 29910

843-757-2888

ATTORNEY FOR PLAINTIFF

February 14, 2019

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)
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minors under the age of 18,)

Plaintiff,)

v.)

BEAUFORT COUNTY,)

Defendant.)

COMPLAINT
(jury trial demanded)

(Wrongful Death and Survival)
(Negligence)
(Negligent Entrustment)
(Negligent Retention)

The Plaintiff alleges:

1. That he is the duly appointed Personal Representative of the Estate of Stacey Dyer and brings this action on behalf of the statutory beneficiaries of the Estate; both the Plaintiff and decedent were at all times relevant herein residents of the State of South Carolina.

2. That Plaintiff and Stacey Dyer were lawfully married.

3. That Plaintiff is the natural father of D.J.D. and S.M.D., who are minors under the age of eighteen.

4. That Plaintiff is an appropriate Guardian pursuant to Rule 17(c), SCRCF, as he is the natural father of D.J.D. and S.M.D. Otherwise, the Plaintiff moves this Court to appoint a Guardian for D.J.D. and S.M.D.

5. That Defendant is a political subdivision of the State of South Carolina within the meaning of the South Carolina Tort Claims Act codified at South Carolina Code Ann. Section 15-78-30(h).

6. That at the time of the incidents complained of herein, Defendant acted by and through its volunteers, agents, contractors and employees, who were acting within the scope and

course of their agency, service, and/or employment with Defendant and within the scope of their official duties, for the purpose of providing emergency response and rescue services; therefore, Defendant is liable for the acts and omissions of its volunteers, agents, contractors and employees under the theory of *respondeat superior*.

7. That Danny Tinnel, at all times relevant herein, was a volunteer, agent, contractor or employee of Defendant and was acting within the scope of his service, agency or employment as a volunteer, agent, contractor or employee of Defendant. Therefore, Defendant is liable for the acts and omissions of Danny Tinnel and its other volunteers, agents, contractors or employees.

8. That Danny Tinnel's duties included operating emergency response vehicles for Defendant.

9. That Danny Tinnel has previously caused or contributed to multiple collisions.

10. That, upon information and belief, Danny Tinnel has been stopped by law enforcement multiple times for speeding.

11. That Danny Tinnel has previously received multiple traffic citations for speeding.

12. That Danny Tinnel has previously been reprimanded by Defendant for improperly operating emergency response vehicles.

13. That, upon information and belief, Danny Tinnel suffers from a medical condition that could affect his ability to safely operate motor vehicles.

14. That, upon information and belief, Defendant allows employees who are incompetent, unfit, inexperienced, or reckless to operate its motor vehicles.

15. That, upon information and belief, Defendant has allowed employees to operate emergency response vehicles while the employee had a serious traffic offense pending.

16. That, upon information and belief, Defendant has allowed employees to operate emergency response vehicles while the employee was charged with driving under the influence of alcohol or other drugs.

17. The most substantial part of the acts and/or omissions herein complained of occurred in Beaufort County, South Carolina.

18. That, on or about the 17th day of November 2018, Plaintiff was operating a vehicle on Highway 21 that was rear-ended by a vehicle operated by Danny Tinnel and owned by Defendant.

19. That Stacey Dyer, D.J.D., S.M.D., Lexi Dyer, and another minor were passengers in Plaintiff's vehicle.

20. That Table A below, obtained from the Airbag Control Module of the Defendant's vehicle, confirms that Danny Tinnel was traveling at 76.4 miles per hour at one half second prior to impact.

21. That Table A below, obtained from the Airbag Control Module of the Defendant's vehicle, confirms that Danny Tinnel did not press the brake pedal in the five seconds prior to impact.

Table A

Pre-Crash Data -5.0 to -0.5 sec (Record 1)

Time (sec)	Accelerator Pedal Position, % Full (Accelerator Pedal Position) (%)	Service Brake (Brake Switch Circuit State)	Engine RPM (Engine Speed) (RPM)	Engine Throttle, % Full (Throttle Position) (%)	Speed, Vehicle Indicated (Vehicle Speed) (MPH [km/h])
-5.0	18	Off	1,728	25	77.1 [124]
-4.5	19	Off	1,664	26	77.1 [124]
-4.0	23	Off	1,792	31	76.4 [123]
-3.5	26	Off	1,792	34	76.4 [123]
-3.0	28	Off	1,728	35	76.4 [123]
-2.5	28	Off	1,728	35	76.4 [123]
-2.0	29	Off	1,664	35	76.4 [123]
-1.5	29	Off	1,664	35	76.4 [123]
-1.0	29	Off	1,664	35	76.4 [123]
-0.5	0	Off	1,664	27	76.4 [123]

22. That, as a result of the aforesaid collision, Stacey Dyer sustained catastrophic injuries, which caused her death.

23. That, as a result of the aforesaid collision, Stacey Dyer endured conscious pain and suffering prior to her death.

24. That, as a result of the aforesaid collision and prior to her death, Stacey Dyer incurred sizeable medical bills for treatment and services.

25. That, as a result of the aforesaid collision, Plaintiff, D.J.D., and S.M.D. suffered physical harm and severe and permanent injuries. These injuries caused Plaintiff, D.J.D., and S.M.D. to have to spend large amounts of money for medical treatment and services, suffer excruciating pain, trauma, anxiety, annoyance, body impairment and future medical treatment and costs, and inconvenience.

26. That, as a result of her death, the beneficiaries of Mrs. Dyer have endured grief, sorrow, shock, wounded feelings, mental and emotional anguish and anxiety, the loss of support, love, companionship, and consortium, along with other damages.

27. That Danny Tinnel and Defendant owed Stacey Dyer, D.J.D., D.M.D., and Plaintiff a statutory and common law duty of care.

28. That Danny Tinnel and Defendant breached said duty as outlined herein.

29. That Danny Tinnel and Defendant, thereby, acted in a negligent, reckless, willful, or grossly negligent manner.

FIRST CAUSE OF ACTION
(Negligence / Respondeat Superior)

30. All allegations contained elsewhere in this complaint are realleged and incorporated herein by reference as if they were fully set forth herein to the extent consistent herewith.

31. That Danny Tinnel and Defendant were negligent, negligent per se, careless, reckless, willful, wanton and grossly negligent in some and/or all of the following particulars, to-wit:

- a. in operating a motor vehicle, a dangerous instrumentality, in an unsafe manner;
- b. in failing to keep their vehicle under proper control;
- c. in failing to keep a proper lookout and to observe traffic;
- d. in driving while distracted;
- e. in failing to take evasive action;
- f. in failing to apply or timely apply his brakes;
- g. in failing to use any regard for the safety of other motorists using the roadway;
- h. in traveling at a speed too fast for prevailing conditions;
- i. in failing to use the degree of care and caution that a reasonable and prudent person would have exercised under the same or similar circumstances; and
- j. in such other means and manners as may be determined during the course of discovery;

all of which were the direct and proximate cause of the collision and the resulting injuries and death of Stacey Dyer and the injuries to Plaintiff, D.J.D., and S.M.D.

32. Plaintiff, therefore, is informed and believes that he is entitled to judgment against the Defendant for actual damages in an appropriate amount.

FOR A SECOND CAUSE OF ACTION
(Negligent Entrustment)

33. All allegations contained elsewhere in this complaint are realleged and incorporated herein by reference as if they were fully set forth herein to the extent consistent herewith.

34. Danny Tinnel was incompetent, unfit, inexperienced, or reckless in operating motor vehicles.

35. That Defendant knew, should have known, or had reason to know of Danny Tinnel's condition or proclivities.

36. That Danny Tinnel's condition or proclivities was likely to create an unreasonable risk of harm to others.

37. That Defendant was negligent, negligent per se, careless, reckless, willful, wanton and grossly negligent in some and/or all of the following particulars, to-wit:

- a. in entrusting their vehicle to Danny Tinnel and permitting Danny Tinnel to operate the same when Defendant knew or should have known that Danny Tinnel was not a competent and qualified driver;
- b. in failing to properly train and/or supervise its agents and/or employees in the proper operation of emergency response motor vehicles on the roadways of the State of South Carolina;
- c. in failing to use the degree of care and caution that a reasonable and prudent person would have exercised under the same or similar circumstances; and
- d. in such other means and manners as may be determined during the course of discovery;

all of which were the direct and proximate cause of the collision and the resulting injuries and death of Stacey Dyer and the injuries to Plaintiff, D.J.D., and S.M.D.

38. Plaintiff, therefore, is informed and believes that he is entitled to judgment against the Defendant for actual damages in an appropriate amount.

FOR A THIRD CAUSE OF ACTION
(Negligent Retention)

39. All allegations contained elsewhere in this complaint are realleged and incorporated herein by reference as if they were fully set forth herein to the extent consistent herewith.

40. That Defendant was negligent, negligent per se, careless, reckless, willful, wanton and grossly negligent in some and/or all of the following particulars, to-wit:

- a. in continuing the employment of Danny Tinnel when Defendant knew or should have known that he was not a competent or qualified driver;
- b. in failing to use the degree of care and caution that a reasonable and prudent person would have exercised under the same or similar circumstances; and
- c. in such other means and manners as may be determined during the course and discovery;

all of which were the direct and proximate cause of the collision and the resulting injuries and death of Stacey Dyer and the injuries to Plaintiff, D.J.D., and S.M.D.

41. Plaintiff, therefore, is informed and believes that he is entitled to judgment against the Defendant for actual damages in an appropriate amount.

WHEREFORE, Plaintiff prays for an award against the Defendant for actual damages, costs and attorney's fees.

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